

## **Readoption Review**

### **Schedule of civil penalties 410 IAC 7-23-1**

IC 4-22-2.5-3.1(c) requires an agency to conduct a review to consider whether there are alternative methods of achieving the purpose of the rule that are less costly or less intrusive, or that would minimize the economic impact of the proposed rule on small business.

#### **Description of Rule:**

The Indiana State Department of Health (ISDH) is required under IC 16-42-5-28 to promulgate rules to establish a “schedule of civil penalties” that would be used by the ISDH and local health departments (LHDs) as the official source for monetary penalties. LHDs are prohibited from using their own monetary penalties for violations of food law and must only use the schedule.

#### **Readoption Analysis:**

**1) Is there a continued need for this rule?**

Yes, although the monetary penalties have been used both at the state and local level sparingly, it is very important that there is this enforcement option in order to address noncompliance situations when other measures already available are too strong or not strong enough. The monetary penalties can be used as an intermediate step in an enforcement process.

**2) What is the nature of any complaints or comments received from the public, including small business, concerning the rule or the implementation of the rule by the agency?**

The only complaints the ISDH has received have been when a LHD was not following the schedule and using their own penalties. When this was brought to the attention of the ISDH, the situation was quickly corrected.

**3) Examine the complexity of the rule, including difficulties encountered by the agency in administering the rule and small businesses in complying with the rule.**

There have been no complaints from the industry about the use of this rule. The food industry assisted the ISDH in formulating the schedule the legislation required 10 years ago.

**4) To what extent does the rule overlap, duplicate, or conflict with other federal, state, or local laws, rules, regulations, or ordinances?**

This rule does not overlap, duplicate, or conflict with any other federal, state, or local laws, rules, regulations, or ordinances.

- 5) **When was the last time the rule was reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by this rule since that time?**

The rule was amended in 2004 to correspond to changes made to 410 IAC 7-24, which was also amended in 2004. Any time either 410 IAC 7-24 or 7-23-1 are amended, changes are required to keep the rule accurate.

July 9, 2010